

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

EDMUND ALBERT CHESTER
and
ENNA ROGERS CHESTER

Claim No. CU -1704

Decision No. CU

5824

Under the International Claims Settlement
Act of 1949, as amended

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, was presented by EDMUND ALBERT CHESTER for \$306,350.00 based upon the asserted loss of real and personal property in Cuba, including a stock interest in a Cuban corporation. Claimant, EDMUND ALBERT CHESTER, has been a national of the United States since birth. Inasmuch as ENNA ROGERS CHESTER, a national of the United States since her naturalization in 1957, had an interest in the subject matter of this claim, she is joined as claimant herein.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term "property" means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Claimants have described their losses as follows:

1) 80-acre farm	\$ 16,000.00
2) Personal property, furnishings, and personal effects	22,600.00
3) Automobile	6,500.00
4) Cash in Banks	11,250.00
5) Cuban Telephone Company stock	<u>250,000.00</u>
Total	<u>\$306,350.00</u>

The record includes claimants' statement of property losses, copies of deeds to two parcels of real property on the Isle of Pines, Cuba, affidavits, and records relating to stock purchases and dividends earned therefrom.

On the basis of the evidence of record and pursuant to the Community Property Law of Cuba, the Commission finds that claimants each owned a one-half interest in an 80-acre farm located in the Santa Fe section of the Isle of Pines, Cuba, certain personal property consisting of household furnishings, an automobile, and other personal effects.

The record establishes that claimants left Cuba on December 22, 1958. On December 6, 1961, the Cuban Government published its Law 989 which effectively confiscated all assets, personal property and real estate, rights, shares, stocks, bonds, bank accounts and other securities of persons who left Cuba. On the basis of the foregoing, the Commission finds that Law 989 applied to the above-mentioned real and personal property including the automobile, and that it was taken on December 6, 1961 by the Government of Cuba. (See Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966].)

Real Property

Claimants assert that the value of their 80-acre farm, including improvements made subsequent to purchase in 1956, was \$16,000.00. The evidence in support of the asserted value includes the 1956 purchase price as recited in the deeds, affidavits, and claimants' statements as to improvements. The Commission has some information as to value of real property in some parts of the Isle of Pines. Based on all the evidence available, the Commission finds that claimants' valuation of \$16,000.00 for the 80-acre farm is fair and reasonable at the time of loss and concludes that each claimant sustained a loss in the amount of \$8,000.00 within the meaning of Title V of the Act.

Personal Property

Claimants assert that the aggregate value of the personal properties, including the automobile, was \$29,100.00. They have submitted a general list of the properties, indicating approximate costs, and several affidavits in support.

Based upon the entire record and upon application of approximate depreciation rates for the said items of personal property, the Commission finds that claimants' personal property had values on December 6, 1961, the date of loss, as set forth below. In view of the general groupings of the items involved and considering the fact that claimants could supply only approximate costs based upon memory, the Commission has applied depreciation rates to groups of items employing the average ages of the groups, as indicated:

1959 Buick, value asserted by claimants, \$6,500.00; valuation according to National Automobile Dealers Association	\$ 2,035.00
Jewelry and furs claimed at \$10,000.00; depreciated at 5% per year for 8 years	6,000.00
Cameras, projectors, film equipment claimed at \$2,000.00; depreciated at 10% for 8 years	400.00
Furniture, fixtures and household effects claimed at \$6,600.00; depreciated at 5% for 8 years	3,960.00

Library equipment, shelves and books claimed at \$2,000.00; depreciated at 10% for 8 years	\$ 400.00
Clothing for family of four claimed at \$2,000.00; depreciated at 10% for 8 years	<u>400.00</u>
Total Personal Property	\$13,195.00

The Commission concludes therefore that each claimant sustained a loss of personal property in the amount of \$6,597.50 within the meaning of Title V of the Act.

Cuban Telephone Company

Claimants, who owned a stock interest in the Cuban Telephone Company, also assert a claim under Title V against the Government of Cuba because of its nationalization of said Company.

In our decision entitled the Claim of International Telephone and Telegraph Corporation (Claim No. CU-2615 which we incorporate herein by reference), we held that the properties of the Company were nationalized or otherwise taken by the Government of Cuba on August 6, 1960, and that this type of claim is compensable to an American national under the facts and conditions set forth therein. We need not again detail here the reasons or the method used in determining the value per share of common stock of \$184.0057.

On the basis of evidence in the record in the instant case, the Commission finds that claimants come within the terms of the ITT decision; that they were American nationals at the requisite times; that they have been the joint owners of 2,500 shares of stock in the Cuban Telephone Company since prior to August 6, 1960; and that they suffered an aggregate loss in the amount of \$460,014.25 within the meaning of Title V of the Act.

Cash in Banks

Claimants state they lost cash totalling \$11,250.00 assertedly held in two Havana Banks. With the exception of a blank check printed by the Banco Nunez of Havana, Cuba, no evidence, documentary or otherwise, has been submitted in support of this portion of the claim. Accordingly, this portion of the claim is denied. (See Claim of Joseph Simone, Claim No. CU-1021.)

Claimants' losses may be summarized as follows:

EDMUND ALBERT CHESTER

<u>Item</u>	<u>Date of Loss</u>	<u>Value</u>
Personal Property	December 6, 1961	\$ 6,597.50
Farm	December 6, 1961	8,000.00
Stock	August 6, 1960	<u>230,007.12</u>
		<u>\$244,604.62</u>

ENNA ROGERS CHESTER

<u>Item</u>	<u>Date of Loss</u>	<u>Value</u>
Personal Property	December 6, 1961	\$ 6,597.50
Farm	December 6, 1961	8,000.00
Stock	August 6, 1960	<u>230,007.13</u>
		<u>\$244,604.63</u>

It will be noted that the total amount of loss found herein is in excess of the amount asserted by claimants. However in determining the amount of loss sustained, the Commission is not bound by any lesser or greater amounts which may be asserted by a claimant as the extent thereof. (See Claim of Eileen M. Smith, Claim No. CU-3038.)

The Commission has decided that in certifications of loss on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644), and in the instant case it is so ordered, as follows:

	<u>FROM</u>	<u>ON</u>
EDMUND ALBERT CHESTER:	December 6, 1961	\$ 14,597.50
	August 6, 1960	<u>230,007.12</u>
		<u>\$244,604.62</u>
ENNA ROGERS CHESTER:	December 6, 1961	\$ 14,597.50
	August 6, 1960	<u>230,007.13</u>
		<u>\$244,604.63</u>

CERTIFICATIONS OF LOSS


The Commission certifies that EDMUND ALBERT CHESTER sustained a loss, as a result of actions of the Government of Cuba, within the scope of Title V

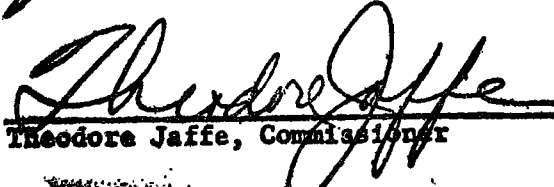
of the International Claims Settlement Act of 1949, as amended, in the amount of Two Hundred Forty-four Thousand Six Hundred Four Dollars and Sixty-two Cents (\$244,604.62) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement; and

The Commission certifies that ENNA ROGERS CHESTER sustained a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Two Hundred Forty-four Thousand Six Hundred Four Dollars and Sixty-three Cents (\$244,604.63) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement.

Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission

SEP 9 1970


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner

NOTICE TO TREASURY: The above-referenced securities may not have been submitted to the Commission or if submitted, may have been returned; accordingly, no payment should be made until claimants establish retention of the securities or the loss here certified.

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)